

**REMARKS**

After entry of this amendment, claims 1-6, and 9-65 will be pending for the Examiner's review and consideration. The Applicant would first like to thank the Examiner for the allowance of the subject matter disclosed in claims 6, 8-10, 26-42, and 53-55. The Office Action dated January 21, 2004 has been carefully considered. Claims 1, 9, 43 and 62 have been amended. No new matter has been added. Reconsideration and allowance of the present application in view of the above amendments and the following remarks is respectfully requested.

In the Office Action dated January 21, 2004, the Examiner:

- rejected claims 1-5, 7, 11, 12, 15, 16-22, 24, 25, 43-48, 50, 51, and 60-65 under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,193,721 to Michelson ("Michelson");
- rejected claims 13, 14, 23, 49, 52, and 56-59 under 35 U.S.C. § 103(a) as being unpatentable over Michelson;
- objected to claims 6, 8-10, and 53-55 as being dependent upon a rejected base claim, but otherwise allowable if rewritten in independent form to include all the limitations of the base claims; and
- allowed claims 26-42.

**Independent Claim 1**

Independent claim 1 was rejected under 35 U.S.C. § 102(e) as being anticipated by Michelson. The Applicant would first like to thank the Examiner for the allowance of the subject matter disclosed in claim 8 if it is rewritten in independent form to include all the limitations of the base claim including any intervening claims. Independent claim 1 has been amended to include all of the limitations of claim 8. Thus, it is respectfully submitted that independent claim 1 is allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 1 is therefore respectfully requested.

Claims 2-6 and 9-25 all ultimately depend from independent claim 1, and thus, it is respectfully submitted that these claims are equally allowable for at least this reason. Withdrawal of these rejections and allowance of claims 2-6 and 9-25 is therefore respectfully requested.

Independent Claim 43

Independent claim 43 was rejected under 35 U.S.C. § 102(e) as being anticipated by Michelson. As amended, independent claim 43 recites a bone fixation system comprising a bone screw having a longitudinal axis, a head; a shank; and a collar disposed between the head and shank and comprising a top portion and a plurality of lower portions, at least two adjacent lower portions forming at least one edge generally concentric to a longitudinal axis of the bone screw, wherein each edge is disposed along an imaginary convex surface that is generally spherical; and a receiving member comprising at least one bore having a longitudinal axis, the bore defining an inner surface having an upper portion and a lower generally spherical portion for contacting the imaginary convex surface for permitting the longitudinal axis of the bone screw to be angulated with respect to the longitudinal axis of the bore. There is no disclosure, teaching, or suggestion in Michelson of providing a receiving member comprising at least one bore having a longitudinal axis, the bore defining an inner surface having an upper portion and a lower generally spherical portion for contacting the imaginary convex surface for permitting the longitudinal axis of the bone screw to be angulated with respect to the longitudinal axis of the bore.

In contrast Michelson discloses a plate having a plurality of bone screw receiving holes, wherein the receiving holes comprise a first portion and a threaded second portion. Alternatively, Michelson discloses a receiving hole having a ledge for engaging a lip formed on the bone screw. There is no disclosure, suggestion, or teaching in Michelson of providing a bore having an upper portion and a lower generally spherical portion for contacting the imaginary convex surface for permitting the longitudinal axis of the bone screw to be angulated with respect to the longitudinal axis of the bore. Thus, it is respectfully submitted that Michelson does not disclose, teach, or suggest all of the limitations of independent claim 43. Withdrawal of this rejection and allowance of independent claim 43 is therefore respectfully requested.

Claims 44-61 all ultimately depend from independent claim 43, and thus, it is respectfully submitted that these claims are equally allowable for at least this reason. Withdrawal of these rejections and allowance of claims 44-61 is therefore respectfully requested.

Independent Claim 62

Independent claim 62 was rejected under 35 U.S.C. § 102(e) as being anticipated by Michelson. As amended, independent claim 62 recites a bone fixation assembly comprising a bone fastener comprising a head, a shank, and a collar, the collar having a top portion and a plurality of lower portions, at least two adjacent lower portions forming at least one circular edge; and a receiving member comprising at least one bore that defines an inner surface with a first cylindrical portion and a second non-cylindrical portion, wherein the

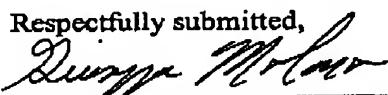
collar and the second non-cylindrical portion contact one another along the at least one circular edge. There is no disclosure, teaching, or suggestion in Michelson of providing a receiving member comprising at least one bore that defines an inner surface with a first cylindrical portion and a second non-cylindrical portion

In contrast, as previously stated, Michelson discloses a plate having a plurality of bone screw receiving holes, wherein the receiving holes comprise a first portion and a threaded second portion. Alternatively, Michelson discloses a receiving hole having a ledge for engaging a lip formed on the bone screw. Thus, it is respectfully submitted that Michelson does not disclose all of the limitations of independent claim 62. Withdrawal of this rejection and allowance of independent claim 62 is therefore respectfully requested.

Claims 63-65 all ultimately depend from independent claim 62, and thus, it is respectfully submitted that these claims are equally allowable for at least this reason. Withdrawal of these rejections and allowance of claims 63-65 is therefore respectfully requested.

In light of the above amendments and remarks, it is respectfully submitted that claims 1-6 and 9-65 are now in condition for allowance, and the Examiner is respectfully requested to reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at 212-790-6348, if a telephone call could help resolve any remaining issues.

Respectfully submitted,



52,039

By: Giuseppe Molaro

(Reg. No.)

35,340

For: Brian M. Rothery

(Reg. No.)

JONES DAY

222 East 41st Street

New York, New York 10017

(212) 326-3939

Date: April 21, 2004

NYJD: 1520610.1

- 11 -